

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Emily Devaney	Team: Squad #1	CCRB Case #: 201903672	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 04/17/2019 1:30 AM	Location of Incident: Livonia Avenue between Bristol Street and Thomas S Boyland Street	Precinct: 73	18 Mo. SOL 10/17/2020	EO SOL 6/3/2021	
Date/Time CV Reported Wed, 04/17/2019 2:54 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 04/30/2019 11:04 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Brian Mahon	23144	949240	073 PCT
2. POM Philip Tantillo	9988	955560	073 PCT
3. POM Thomas Taverna	16875	955566	073 PCT
4. POM Brett Woodard	27829	958175	073 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Philip Tantillo	Abuse: Police Officer Philip Tantillo stopped the vehicle in which § 87(2)(b) was an occupant.	
B.POM Brett Woodard	Abuse: Police Officer Brett Woodard stopped the vehicle in which § 87(2)(b) was an occupant.	
C.POM Brian Mahon	Abuse: Police Officer Brian Mahon stopped the vehicle in which § 87(2)(b) was an occupant.	
D.POM Thomas Taverna	Abuse: Police Officer Thomas Taverna stopped the vehicle in which § 87(2)(b) was an occupant.	
E.POM Philip Tantillo	Abuse: Police Officer Philip Tantillo frisked § 87(2)(b)	
F.POM Philip Tantillo	Abuse: Police Officer Philip Tantillo searched the vehicle in which § 87(2)(b) was an occupant.	
G.POM Brett Woodard	Abuse: Police Officer Brett Woodard searched the vehicle in which § 87(2)(b) was an occupant.	
H.POM Brian Mahon	Abuse: Police Officer Brian Mahon searched the vehicle in which § 87(2)(b) was an occupant.	
I.POM Philip Tantillo	Abuse: Police Officer Philip Tantillo failed to provide § 87(2)(b) with a business card.	
J.POM Brett Woodard	Abuse: Police Officer Brett Woodard failed to provide § 87(2)(b) with a business card.	
K.POM Brian Mahon	Abuse: Police Officer Brian Mahon failed to provide § 87(2)(b) with a business card.	
L.POM Thomas Taverna	Abuse: Police Officer Thomas Taverna failed to provide § 87(2)(b) with a business card.	

Case Summary

On April 17, 2019, § 87(2)(b) filed this complaint with Sgt. Kolodica of PSA1 who notified IAB of this complaint. IAB forwarded this complaint to the CCRB where it was received on April 30, 2019.

On April 17, 2019, at approximately 1:30 a.m., § 87(2)(b) was driving at the intersection of Livonia Avenue and Bristol Street in Brooklyn when Police Officers Philip Tantillo, Brett Woodard, Brian Mahon, and Thomas Taverna, all from the 73rd Precinct, pulled him over (**Allegations A-D: Abuse of Authority**, § 87(2)(g) PO Tantillo told § 87(2)(b) to exit the car, which he did. PO Tantillo frisked § 87(2)(b) (**Allegation E: Abuse of Authority**, § 87(2)(g) PO Tantillo, PO Mahon, and PO Woodard searched § 87(2)(b)'s vehicle (**Allegations F-H: Abuse of Authority**, § 87(2)(g) Neither PO Tantillo, PO Woodard, PO Mahon, nor PO Taverna provided § 87(2)(b) with a business card (**Allegations I-L: Abuse of Authority**, § 87(2)(g) § 87(2)(b) was neither arrested nor summonsed.

The investigation obtained body-worn camera (BWC) videos from PO Tantillo, PO Mahon, and PO Taverna (Board Review 01-03). PO Woodard's BWC had a hardware malfunction at the time and did not record this incident, per the Information Technology Bureau (Board Review 17).

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Philip Tantillo stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation (B) Abuse of Authority: Police Officer Brett Woodard stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation (C) Abuse of Authority: Police Officer Brian Mahon stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation (D) Abuse of Authority: Police Officer Thomas Taverna stopped the vehicle in which § 87(2)(b) was an occupant.

§ 87(2)(b) testified that he was driving for Uber when he noticed an unmarked vehicle with tinted windows behind him when he was stopped at the intersection of Chester Street and Livonia Avenue (Board Review 04-06). § 87(2)(b) suspected the vehicle was a police car because only police cars are permitted to have tinted windows. § 87(2)(b) made a left turn onto Livonia Avenue, taking care to follow all traffic rules including using his turn signal. At the intersection of Livonia Avenue and Bristol Street, the police vehicle turned on its emergency lights. § 87(2)(b) promptly pulled over. PO Tantillo, PO Woodard, PO Mahon, and PO Taverna approached § 87(2)(b)'s vehicle. § 87(2)(b) was not arrested or issued a summons at the conclusion of this incident. § 87(2)(b) did not have any passengers at the time.

PO Tantillo, PO Mahon, and PO Taverna all testified that they observed § 87(2)(b) fail to use his turn signal when he turned onto Livonia Avenue from Chester Street (Board Review 05-07). None of the officers suspected § 87(2)(b) of committing any other violation or crime. PO Tantillo, PO Mahon, and PO Taverna stated that the officers decided collectively to stop § 87(2)(b) to address the traffic violation, and no other reason. PO Tantillo, PO Mahon, and PO Taverna all stated that they did not issue § 87(2)(b) a summons because they used their discretion and gave § 87(2)(b) a warning.

PO Woodard did not recall this incident (Board Review 08).

The officers' BWC videos do not show whether § 87(2)(b) used his turn signal (Board Review 01-03). However, PO Taverna told § 87(2)(b) that his signal was not working, as shown at the 7:30 timestamp of his BWC (Board Review 03).

§ 87(2)(g)

Allegation (E) Abuse of Authority: Police Officer Philip Tantillo frisked § 87(2)(b)
Allegation (F) Abuse of Authority: Police Officer Philip Tantillo searched the vehicle in which § 87(2)(b) was an occupant.

Allegation (G) Abuse of Authority: Police Officer Brett Woodard searched the vehicle in which § 87(2)(b) was an occupant.

Allegation (H) Abuse of Authority: Police Officer Brian Mahon searched the vehicle in which § 87(2)(b) was an occupant.

§ 87(2)(b) provided two phone statements and a verified statement (Board Review 04-06). § 87(2)(g)

§ 87(2)(b) testified that he pulled over his car, a Ford Expedition, and rolled down the front windows (Board Review 04-06). PO Tantillo approached § 87(2)(b) at the driver's window and asked for his license and registration. As § 87(2)(b) turned to procure the documents from his center console, PO Tantillo told him to step out of the car. § 87(2)(b) exited the vehicle. PO Tantillo remarked that the car smelled like marijuana. § 87(2)(b) told PO Tantillo that he did not want the officers to search his car. PO Tantillo instructed § 87(2)(b) to stand behind the car, and § 87(2)(b) complied. PO Tantillo and PO Woodard searched § 87(2)(b)'s car. § 87(2)(b) did not know specifically where PO Tantillo and PO Woodard searched since § 87(2)(b) was facing away from his car. When § 87(2)(b) was permitted to return to the driver's seat, § 87(2)(b) saw an officer open the rear hatch and search the trunk of the car in the rearview mirror.

§ 87(2)(b) stated over the phone that at the time there was a clear plastic bag in the center console that contained either tobacco or marijuana (Board Review 04). § 87(2)(b) did not know what was inside since the bag was not his, but a prior passenger's.

During his verified statement, however, § 87(2)(b) stated that the bag did not contain marijuana; rather it contained one brown tobacco leaf and "Bob Marley" cigarette papers (Board Review 05). § 87(2)(b) stated that there was no marijuana in his car. § 87(2)(b) denied ever smoking marijuana in his car or that any passengers ever smoked in his car.

The BWC videos from PO Tantillo, PO Mahon, and PO Taverna showed that PO Tantillo told § 87(2)(b) to step out of the car and then frisked § 87(2)(b) around his waist and down his legs (Board Review 01-03). PO Tantillo's BWC showed that PO Tantillo and PO Woodard entered the driver's seat and front passenger seat areas, respectively (Board Review 01). At the 2:15 minute-mark of the player's timestamp, PO Woodard picks up a plastic bag in the center console. PO Woodard tells PO Tantillo, "Marijuana in here." PO Tantillo replies, "Yeah, that's what I saw in the center console in plain view." PO Tantillo and PO Woodard then searched the rear seats. When he finished searching, PO Tantillo tells § 87(2)(b) to go back into the car, which § 87(2)(b) does.

PO Mahon's BWC video showed that after § 87(2)(b) returned to the driver's seat, PO Mahon and PO Woodard searched the trunk of the car, beginning at the 5:30 minute-mark (Board Review 02). Neither PO Mahon nor PO Woodard recovered anything from the trunk.

PO Tantillo, PO Mahon, and PO Taverna all testified that they each detected an odor of marijuana emanating from inside the vehicle immediately upon approach (Board Review 07-09).

PO Tantillo additionally stated that he shined his flashlight into the vehicle and saw a plastic bag with rolling papers in the center console (Board Review 07). PO Tantillo told § 87(2)(b) to step out of the vehicle because PO Tantillo suspected § 87(2)(b) of possessing marijuana and intended to search for the marijuana. PO Tantillo frisked § 87(2)(b) to ensure § 87(2)(b) did not have any weapons on his person for the safety of the officers. PO Tantillo and PO Woodard searched the vehicle because they believed there was marijuana in § 87(2)(b)'s car. PO Tantillo recovered a small amount of marijuana in a clear plastic bag from the center console.

PO Mahon testified that he opened the hatch and searched the trunk because he detected the odor of marijuana (Board Review 08). PO Mahon stated that his search was a continuation of PO Tantillo's and PO Woodard's search of the vehicle.

PO Tantillo, PO Mahon, and PO Taverna all testified that the bag of marijuana was returned to § 87(2)(b) and that no law enforcement action was taken in regard to the marijuana (Board Review 07-09). PO Tantillo, PO Mahon, and PO Taverna stated that they all decided to not issue § 87(2)(b) a summons for marijuana per their discretion.

PO Woodard testified that he did not recall this incident (Board Review 10). PO Woodard reviewed PO Tantillo's and PO Mahon's BWC videos and concluded that he must have detected the odor of marijuana at the time.

§ 87(2)(g)

The smell of marijuana is sufficient to provide officers with probable cause to search an automobile and its occupants, according to People v. Chestnut, 43 A.D.2d 260 (Board Review 11).

§ 87(2)(g)

Allegation (I) Abuse of Authority: Police Officer Philip Tantillo failed to provide § 87(2)(b) with a business card.

Allegation (J) Abuse of Authority: Police Officer Brett Woodard failed to provide § 87(2)(b) with a business card.

Allegation (K) Abuse of Authority: Police Officer Brian Mahon failed to provide § 87(2)(b) with a business card.

Allegation (L) Abuse of Authority: Police Officer Thomas Taverna failed to provide § 87(2)(b) with a business card.

It is undisputed that neither PO Tantillo, PO Mahon, PO Taverna, nor PO Woodard provided § 87(2)(b) with a business card during this incident.

PO Tantillo testified that he may not have had business cards with him at the time because he may not have received them (Board Review 07). Additionally, PO Tantillo stated that the only time officers were required to provide individuals with business cards is if the individual requests a card.

PO Mahon testified that he did not know if he had business cards at the time of incident (Board Review 08). PO Mahon stated that he is required to provide an individual with a business card when one is requested or when PO Mahon prepares a stop report.

PO Taverna testified that while he had business cards with him at the time, he did not give § 87(2)(b) a business card because encounters with probable cause do not require the officer provide a business card (Board Review 09).

PO Woodard testified that he had business cards with him at the time (Board Review 10). PO Woodard did not give § 87(2)(b) a business card because vehicle stops did not require officers to provide the driver with a business card.

§ 87(2)(g)

According to the New York City Administrative Code §14-174, an officer shall offer a business card to the person who is the subject of a frisk, search of person, or search of property, including vehicles, when no summons is issued (Board Review 12).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) has been party to one additional CCRB complaint and has been named as a victim in three allegations (Board Review 13):
 - § 87(2)(b)
- PO Philip Tantillo has been a member of service for six years and has been a subject in five CCRB complaints and five allegations, none of which were substantiated. § 87(2)(g)
- PO Brian Mahon has been a member of service for nine years and has been a subject in two CCRB complaints and three allegations, of which two were substantiated (Board Review 14):
 - 201102448 involved substantiated allegations of stop and question against PO Mahon. The Board recommended Charges, and the NYPD imposed no penalty.
 - § 87(2)(g)
- PO Thomas Taverna has been a member of service for six years and has been a subject in two CCRB complaints and two allegations, none of which were substantiated. § 87(2)(g)
- PO Brett Woodard has been a member of service for five years and has been a subject in eight CCRB complaints and 16 allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of February 7, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this complaint (Board Review 15).

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Squad No.: 1

Investigator: _____
Signature Print Title & Name Date

Squad Leader: Mgr. Joy Almeyda _____
Signature Print Title & Name 4.23.20
Date

Reviewer: _____
Signature Print Title & Name Date